

May 6, 1996

REPORT TO THE HONORABLE CHAIRPERSON AND  
MEMBERS OF THE REDEVELOPMENT AGENCY

WEST COAST GENERAL CORPORATION'S USE OF UNAUTHORIZED  
SUBCONTRACTORS FOR  
THE GASLAMP QUARTER PARK PROJECT IN THE GASLAMP QUARTER SUB AREA  
OF THE  
CENTRE CITY REDEVELOPMENT PROJECT

On November 1, 1994, at a regularly scheduled meeting of the Redevelopment Agency of The City of San Diego ("Agency"), a hearing was held to determine whether West Coast General Corporation ("WCG") was in default of Contract No. AC 9400474 (the "Gaslamp Quarter Park Contract") and whether WCG had violated the Subletting and Subcontractors Fair Practices Act.

As a result of that hearing, the Agency concluded that WCG had violated the Subletting and Subcontractors Fair Practices Act and terminated WCG's contract. After the Agency had secured a replacement contractor for the project, WCG initiated a lawsuit seeking injunctive relief via a writ proceeding and monetary damages via a breach of contract action. The superior court has ruled that WCG must prevail on their writ action before being allowed to proceed on a breach of contract theory for damages stemming from the alleged wrongful termination.

In litigating the writ action, WCG attacked every aspect of the administrative hearing conducted by the Agency on November 1, 1994, including a claim that their right to due process and a fair hearing was violated. In its rulings (see Attachment 1) the court found no due process violation with respect to the manner in which the hearing was conducted by the Agency. The court did, however, find that the Agency failed to adopt complete findings to support its decision.

As you know, proposed findings are typically prepared by staff and presented to Council at most quasi-judicial administrative hearings. However, in this case, because of the punitive nature of the hearing, the knowledge that new information would be presented at the hearing, and most importantly, to avoid the appearance (and the anticipated allegation by WCG) that the City had prejudged the matter and was thus violating WCG's right to due process, a decision was made by the Centre City Development Corporation ("CCDC") and the City Attorney not to present the Council with proposed findings at the time of the hearing.

Attachment 2 is the entire administrative record of the WCG termination hearing, including a written transcript of the proceeding. Please review this record in its entirety and consider the proposed findings set forth in the proposed Redevelopment Agency Resolution No. RA-96-121. The hearing in this matter has been closed and the only matter before the Agency at this point is consideration and adoption of findings. Please remember that these findings are merely proposed for your consideration, and should be altered if they do not accurately reflect your actual findings in this matter.

Respectfully submitted,

JOHN W. WITT  
General Counsel

RAD:JFK:612.2(043.1)

Attachments

RC-96-21